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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/408,924	09/30/1999	THEODORE DAVID WUGOFSKI	98-0874	4623

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GATEWAY, INC.  
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EXAMINER
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HOYE, MICHAEL W

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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06/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/408,924

Applicant(s)

WUGOFSKI, THEODORE DAVID

Examiner

Michael W. Hoyer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 57-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 57-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 29, 2007 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to newly added claims 57-75 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 57-64 and 66-75 are rejected under 35 U.S.C. 102(e) as being anticipated by Sampsell (USPN 6,219,839), cited by the Examiner.

As to claim 57, note the Sampsell reference which discloses a system for providing an on-screen electronic resource guide (ERG). The claimed network is met by network 34 as shown in Fig. 1, which includes digital interface 30 and cables 30a, 30b, etc. (see col. 4, lines 17-47). The claimed information handling system coupled to the network and comprising a processor is met by receiver 12 (see Figs. 1 and 20, which is coupled to network 34 via interface 30, and receiver 12 inherently comprises a processor since data processing software is used in the receiver (see col. 5, lines 46-48 and 60-62 for example). The claimed a first tuning device coupled directly to the information handling system and configured to send first television signals from a first source to the information handling device is met by primarily by set top box 48 (Fig. 2), or TV receiver 12 receiving programming from antenna 13 (Fig. 1), or by VCR #2 (16) in Fig. 1. The claimed second tuning device coupled to the network and configured to send second television signals from a second source to the information handling device via the network is met primarily by PC 54 (Fig. 2), or by other tuning devices including VCR #1 (14), cable service 22, direct satellite broadcast receiver 24, and/or a data connection, such as an internet service 26 (see Fig. 1 and col. 4, lines 10-48). The claimed memory of the information handling system suitable to store a program of instructions executable by said processor for producing an electronic program guide including first programming information for the first television signals and second programming information for the second television signals is met by memory that is inherent to receiver 12, which includes a program of instructions (see col. 2, lines 37-38; col. 4, lines 5-10; col. 5, lines 58-67; and col. 8, lines 28-55), which produces one or more Electronic Program Guide(s) (EPG(s)) and an Electronic Resources Guide (ERG), which may incorporate one or more EPGs (see col. 3, line 66 – col. 4, line 10) and where the ERG

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displays a list of programming available on the entire network, including said first and second television signals (see col. 5, lines 2-39 and Fig. 4 for example).

As to claim 58, the claimed first television display device configured to receive and display said electronic program guide is met by TV receiver 12 as shown in Figs. 1-2 and as previously described above in claim 57.

As to claim 59, the claimed wherein the electronic program guide is configured to provide controls to be displayed on the first television display device to access and control tuning capabilities of the second tuning device via the network is met by the ERG and associated EPG as described above, where the channel list 70 also includes other sources of programming on the network that may be selected in the same manner used for 'tunable channels' (see col. 3, line 66 – col. 4, line 10; col. 4, lines 45-48; and more specifically col. 5, lines 2-39 and Fig. 4).

As to claim 60, the claimed wherein the first television display device is coupled to the network and configured to receive the electronic programming guide from the information handling system via the network is met by the TV receiver 12 which is coupled to the network 34 and the receiver 12 may also function as the information handling system which may receive the EPG/ERG from other sources on the network as described above in claims 57-59.

As to claim 61, the claimed wherein the second tuning device is located remotely in a different room than the information handling system is met by other appliances or components which may be considered a second tuning device may be located in another area other than alongside receiver 12, i.e. in a different room in a house (see col. 6, lines 21-47 and line 66 – col. 7, line 1).

As to claim 62, the claimed wherein the second tuning device is coupled directly to a second television display device located in a different room than the first television display device is met by PC 54 and a monitor associated with the PC which may display traditional video channels or television programming (see col. 6, lines 21-67 and Figs. 7-8).

As to claim 63, the claimed wherein the second tuning device is coupled directly to a third source and configured to send third television signals from the third source to the information handling device via the network; wherein the electronic program guide further includes third programming information for the third television signals is met by the other sources of programming, appliances, or peripherals on the network such as cable system 22 or DBS 24, where the television signals may be sent from the third source to the information handling device (receiver 12) via the network, and the EPG/ERG further includes the programming information for the “third programming source” (see col. 5, lines 21-39).

As to claim 64, the claimed wherein the network conforms to the Home Audio/Video Interoperability (HAVi) specification for sending first and second television signals is met by the use of the HAVi standard/specification as discussed in the Sampsell reference (see col. 1, lines 34-37; col. 5, line 58 – col. 6, line 6 & lines 30-32 and col. 9, lines 36-39).

As to claim 66, the claimed method of producing an electronic program guide is met based on similar grounds as the rejection of claims 57 and 58 as described above.

As to claim 67, the claimed method according to claim 66, further comprising: providing controls accessible via the television display device, said controls being configured to access and control tuning capabilities of the second tuning device via the network is met based on similar grounds as the rejection of claim 59 as described above.

As to claim 68, the claimed method according to claim 66, further comprising: searching for additional devices coupled to the network is met by when a peripheral or receiver 12 is turned on, it is in an active mode, and will communicate with any other appliance on the network that is in active mode (col. 4, lines 33-36). In some instances a command may be sent to instruct a peripheral to become active (col. 4, lines 36-43). The claimed and identifying whether said the additional devices coupled to the network are additional tuning devices is met by col. 5, lines 21-35, where as a peripheral is activated, any programming information from that peripheral is included in the ERG, which is updated as the peripheral comes on line. In columns 5-9, Sampsell more specifically describes the processes related to identifying additional devices coupled to the network, and identifying and displaying the capabilities of the device in the EPG/ERG (see Figs. 4-10), including identifying additional tuning devices.

As to claim 69, the claimed method according to claim 68, further comprising: determining whether the identified additional tuning devices are capable of providing programming material to the information handling system; and upon determining the identified additional tuning devices to be capable of providing said programming material, adding access to said programming material via the electronic program guide is met by Sampsell as described in the sections listed above in the rejection of claim 68, more specifically, in col. 5, lines 21-39, Sampsell discloses that a tuning device or peripheral, such as cable system 22 or DBS 24 is activated, access to the programming material is added to the EPG/ERD.

As to claim 70, the claimed wherein the second tuning device is located remotely in a different room than the information handling system is met based on similar grounds as the rejection of claim 61 as described above.

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As to claim 71, the claimed machine readable program of instructions storable on an information handling system connected to a network, said program of instructions, upon being executed by the information handling system, results in activities comprising: receiving, at the information handling system, first television signals from a first tuning device; said information handling system being directly coupled to the first tuning device; receiving, at the information handling system, second television signals from a second tuning device; said information handling system being communicatively connected to the second tuning device via the network; generating an electronic program guide comprising first programming information for the first television signals and second programming information for the second television signals; and displaying the electronic program guide on a television display device in communication with the information handling system is met based on similar grounds as the rejection of claim 66 as described above.

As to claims 72-75, the claims are rejected based on similar grounds as the rejection of claims 67-70 respectively.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sampsell, in view of Sezan et al (USPN 6,993,789).



As to claim 65, the Sampsell reference discloses the claimed system according to claim 57 as described above. The Sampsell reference does not explicitly disclose the claimed wherein the network conforms to the Program and System Information Protocol (PSIP) for sending the electronic programming guide. However, the Sezan et al reference teaches the use of conforming a network to the Program and System Information Protocol (PSIP), which provides a standard for transmission of system information, data services and audiovisual programs and allows a viewer to access information about the content of a given audiovisual program (see col. 1, lines 19-29 and col. 3, line 50 – col. 4, line 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the system disclosed in the Sampsell reference with the additional teachings of Sezan, which discloses the use of the Program and System Information Protocol (PSIP) for the advantage of conforming the network to an established industry standard for transmitting electronic program guide information. One of ordinary skill in the art would have been led to make such a modification since conforming to well known industry standards, such as PSIP, is well known to those of ordinary skill in the art of audiovisual distribution systems.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shteyn (USPN 6,119,136) – Discloses a HAVi-network that controls audio/video equipment in a home entertainment system.

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Shteyn (USPN 6,618,764) – Discloses a method for enabling interaction between two home networks of different software architectures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is **571-272-7346**.

The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at **571-272-7353**.

**Any response to this action should be mailed to:**

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**Or faxed to: 571-273-8300**

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **571-272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

June 11, 2007

A handwritten signature in black ink, appearing to read "Michael W. Hoyer". The signature is fluid and cursive, with the first name "Michael" and last name "Hoyer" being the most prominent parts.

Michael W. Hoyer  
Patent Examiner  
Art Unit 2623